

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Alaska Communications Systems	)	WC Docket No. 10-90
Application for Review of Paragraph 41	)	
Of the Connect America Phase II Service	)	
Obligations Order	)	

**COMMENTS OF MID-RIVERS TELEPHONE COOPERATIVE, INC.**

Submitted December 20, 2013

Mid-Rivers Telephone Cooperative, Inc. ("Mid-Rivers") hereby submits Reply Comments in response to the Wireline Competition Bureau's ("Bureau's") Public Notice<sup>1</sup> regarding the Alaska Communications Systems ("ACS") *Application for Review* ("Application") of Paragraph 41 of the Connect America Phase II Service Obligations Order ("Order")<sup>2</sup>, and the subsequent Comments filed in this proceeding by interested parties.

Mid-Rivers is an incumbent and also a competitive local exchange carrier with Eligible Telecommunications Carrier (ETC) status in several Price Cap carrier exchanges in rural Eastern Montana. We currently provide voice and broadband services, with more robust broadband speeds and over a larger footprint than the incumbent Price Cap carrier, and we currently serve the majority of the customers (over 80%) in each of these exchanges. The wireline broadband services we provide in these rural exchanges today exceeds the metrics for speed, latency, data allowances, and price detailed in this Order. While some of the most remote areas of these rural exchanges remain unserved, Mid-Rivers as the competitive ETC is much better situated to extend broadband to the remaining unserved customers than the incumbent Price Cap carrier. The incumbent does not currently provide broadband service in some of these exchanges, and has twice refused CAF Phase I support to extend broadband to any unserved areas in this part of the state. Mid-Rivers currently receives phased-down support in these areas under the identical support rule, because the incumbent also received support here. Under the provisions of the 1996 Telecommunication Act, Mid-Rivers was able to offer these exchanges an improved quality of voice service and introduce the first (and in some cases the only) broadband services as a competitive provider.

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<sup>1</sup> See Public Notice, *Wireline Competition Bureau Reminds Parties of Deadlines for Filing Oppositions and Replies Regarding the Alaska Communications Systems Application for Review of Paragraph 41 of the Connect America Phase II Service Obligations Order*, WC Docket No. 10-90, DA 13-22858, Released November 27, 2013.

<sup>2</sup> In the Matter of Connect America Fund, *Report and Order*, WC Docket No. 10-90, DA 13-2115, Released October 31, 2013.

Mid-Rivers opposes the ACS Application, which requests that the Commission reverse or stay the Bureau's decision in Paragraph 41 of the CAF Phase II Obligations Order to "entertain challenges to that presumption from any competitive eligible telecommunications carrier that otherwise meets or exceeds the performance obligations established herein and whose high-cost support is scheduled to be eliminated during the five-year term of Phase II." The Bureau clearly states in this same Order that "the Commission's intent in adopting this [unsubsidized competitor] rule was to preclude support to areas where voice and broadband is available without burdening the federal support mechanisms." The Commission's intent in this scenario was appropriate and is in the public interest.

Through the clarification provided in Paragraph 41, the Bureau is merely offering an "opportunity for the Commission to consider whether to waive the application of the 'unsubsidized' element of the unsubsidized competitor definition in situations that would result in Phase II support being used to overbuild an existing broadband-capable network." The Bureau's reasoning is sound on this issue and clearly promotes the public interest by **allowing examination at a granular level of the specific service conditions that exist in a specific area before awarding limited support**. The burden of proof that broadband service exists will remain on the competitive ETC, who will be required to make a showing that any services being provided in an area are in place today and currently meet the extensive and specific quality and price metrics outlined in the same Order. Paragraph 41 protects consumers from wasted USF dollars, and the balance of this Order protects them by ensuring that areas which may be unserved or marginally served are NOT removed from eligibility for CAF Phase II support.

Comments submitted by other carriers participating in this proceeding reinforce the important point that those **census blocks that are wholly unserved, or where the Price Cap is the only broadband provider, will remain eligible for CAF Phase II irrespective of how the Commission addresses CETCs that are phasing out high-cost support**. Paragraph 41 does *not* automatically remove any areas from CAF Phase II eligibility, nor does it automatically grant the competing carrier a right to any CAF Phase II support dollars. **The incumbent Price Cap carrier still has the Right of First Refusal (RoFR) to elect CAF Phase II support for extending broadband to the unserved areas of its exchanges**. This RoFR remains for the Price Cap carrier regardless of how the Commission views competitors with phased-out support. Competitive providers may have an opportunity for CAF Phase II support **ONLY** if the incumbent is NOT willing to make a statewide commitment to extend broadband to unserved areas. At that time, **should a competitive provider be awarded CAF Phase II support for unserved areas, they WILL be subject to not only voice service requirements but also broadband build-out obligations akin to Carrier of Last Resort (COLR) obligations** in these areas.


Granting the ACS Application would remove the Bureau's ability to enact a tool that has become central to the targeted implementation of the Connect America Fund – **the challenge process** – in cases where the competitive provider is in receipt of support that is being phased down (and will be eliminated by 2016). Without the ability to challenge, competitive ETCs like Mid-Rivers are left with essentially no options but to be overbuilt by a supported provider as our own support transitions to zero, and no opportunity to recover any of our investments or to compete on a fair playing field.

Allowing an overbuild of existing broadband facilities to take place with limited Federal universal service support dollars, due simply to language in the *USF/ICC Transformation Order* that did not originally communicate the Commission's true intent, would be a travesty. While universal service needs in Montana may not be on the same scale as in Alaska, rural Montana still has substantial universal service needs, so it is important that the Commission proceed with a careful and granular review in determining the best use of these limited funds. As one commenter stated, "what ACS proposes is unfocused and is not a good use of scarce high-cost dollars," and would result in wasteful overbuild situations in Montana as well as Alaska. The ACS request does not meet the Commission's goal of providing **highly targeted support to areas where it is most needed**, and there is not enough support available to allow these dollars to be spent overbuilding existing and sufficient broadband networks.

As the final guidelines for distributing CAF Phase II support are considered, **focus should be placed on the ability of existing broadband providers to challenge, regardless of whether or not that provider is receiving phased-down support.** We encourage the Commission to **let the challenge process do its job** by upholding the clarification that the term "unsubsidized competitor" was not meant to exclude providers with phased-down support. The bottom line is that **it is not a responsible use of limited funds to allow an incumbent to receive support that will then be used to overbuild an area that is clearly served with a level of existing broadband service that meets the Commission's strict requirements for speed, price, latency and comparability.** Where that case can be proven, it is prudent to NOT award support for a served area.

It is important to the goals of universal broadband and an efficient use of limited support that the provisions of Paragraph 41 stand for not only Alaska but for all other areas of the nation. We therefore request that the Commission deny the ACS Application for Review.

Respectfully submitted,  
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